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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,798	08/02/2000	Koji Hatanaka	35.G2637	7871

5514 7590 04/21/2004

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NEW YORK, NY 10112

EXAMINER
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TODD, GREGORY G

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 04/21/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/630,798	HATANAKA, KOJI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory G Todd	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-9,11-16,18-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-16,18-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. This is a second office action in response to applicant's amendment filed, 06 February 2004, of application filed, with the above serial number, on 02 August 2000 in which claims 1-2, 4-9, 11-13, 15-16, 18-23, and 25-29 have been amended and claims 3, 10, 17, and 24 have been cancelled. Claims 1,2,4-9,11-16, 18-23, and 25-29 are therefore pending in the application.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-11, 13-18, 20-25, and 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Pavley (hereinafter "Pavley", 6,445,460).

4. As per Claims 1, 15, and 28, Pavley discloses an image processing apparatus, an image processing method, and a storing medium, storing computer-readable programs for realizing an image processing method, wherein Pavley discloses:

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reading means for reading a plurality of images from a storing medium along with transfer history information of the plurality of images (archive file attribute) (at least col. 4, lines 1-6; col. 5, lines 30-45); and

transfer means for transferring images to other apparatuses (at least col. 5, lines 45-60; col. 6, lines 10-24); and

display means for displaying the read images,

wherein said display means is adapted to change, according to the history information, an order in which the read images are displayed (displaying images chronologically according to attribute) (at least col. 4, lines 7-20; col. 5, lines 25-45).

wherein said transfer means comprises control means including a first mode for making reference to the transfer history information and performing batch transfer of images not previously transferred to other apparatuses (auto image transfer according to archive attribute) (at least col. 6, lines 3-24).

5. As per Claims 2, 9, 16, and 23.

selecting means for selecting images to be transferred (at least col. 1, lines 25-30; col. 6, lines 3-24);

wherein the control means is adapted to arbitrarily switch between a second mode for transferring images selected by said selecting means (manual option and not using rule) (at least col. 1, lines 25-30; col. 6, lines 3-24) and the first mode (at least col. 1, lines 25-30; col. 6, lines 3-24).

6. As per Claims 4, 11, 18, and 25.

wherein said display means displays, according to said transfer history information, only images not previously transferred (displaying those images not deleted) (at least col. 4, lines 7-20; col. 5, lines 25-45; col. 6, lines 3-9).

7. As per Claims 6, 13, 20, and 27.

wherein, if transfer history information of an image to be deleted exists in a file storing the transfer history information, the transfer history information corresponding to that image is deleted according to deletion of the image to be deleted (deleting image file and inherently associated attribute with file) (at least col. 5 line 39 - col. 6 line 9).

8. As per Claims 7 and 21.

imaging means (at least col. 5, lines 43-60; Fig. 1); and

recording means for recording images images by said imaging means onto the storing medium (digital camera) (at least col. 5, lines 43-60; Fig. 1).

9. As per Claims 8, 22, and 29, Pavley discloses an image processing apparatus, an image processing method, and a storing medium, storing computer-readable programs for realizing an image processing method, wherein Pavley discloses:

reading means for reading transfer history information of a plurality of images from a storing medium, wherein the transfer history information indicates whether or not an image was transferred to other apparatuses (archive file attribute) (at least col. 4, lines 1-6; col. 5, lines 30-45); and

capturing means for capturing images from the storing medium (at least col. 5, lines 45-60; col. 6, lines 10-24);

display means for displaying the images captured by said capturing means,

wherein said display means is adapted to change, according to the history information, an order in which the read images are displayed (displaying images chronologically according to attribute) (at least col. 4, lines 7-20; col. 5, lines 25-45).

wherein said capturing means comprises control means including a first mode for making reference to the transfer history information and performing batch capture of images not previously transferred to other apparatuses (auto image transfer according to archive attribute) (at least col. 6, lines 3-24).

10. As per Claim 14.

wherein the image processing apparatus is a host computer (desktop computer running rules) (at least col. 5, lines 46-60; col. 6, lines 25-43).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5, 12, 19, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley.

Pavley fails to explicitly disclose wherein the transfer history information is recorded in a file separate from an image. However, OFFICIAL NOTICE is taken that such separate files could be used to describe the image. Pavley discloses the file attributes as being metadata common with many operating systems (at least col. 5,

lines 25-45) with his ultimate goal of conserving time by automatically transferring non-transferred images. By using file attributes, the entire image does not need to be processed however, and thus an operating system can easily search multiple files by their attribute type and thus be centrally managed as well. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of another file as having archiving history as this would enhance Pavley's system as having an alternative to using file attributes and lead to Pavley's ultimate goal of an automatic and fast image transferal system.

### ***Response to Arguments***

13. Applicant's arguments filed 06 February 2004 have been fully considered but they are not persuasive.

Applicants argue, in substance, that Pavley fails to disclose display means adapted to change, according to the transfer history information, the image display order.

In response, as Applicant agrees, Pavley discloses attributes for images in image tags that correspond to how the images are displayed to the user on the display, and, as Applicant points out one example, to scroll through the images on the display in chronological order and thus by a date/time tag associated with the image, which clearly reads on Applicants claim language of displaying the images according to any history information.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Newly cited Otani et al and Niikawa in addition to previously cited Peairs et al, Manolis et al, Anderson et al, Dwyer et al, Dow et al, Shiota et al, Loui et al, Kunishige and Fichtner are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.



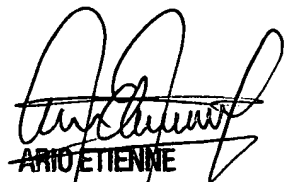
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd 

Patent Examiner

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